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STATE OF TEXAS,
Plaintiff

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IN THE DISTRICT COURT OF

VS.

EL PASO COUNTY, T E X A S

MILKY WAY TRADERS, INC., and
YVON BELLIARD, individually,
Defendants

_____ JUDICIAL DISTRICT

EX PARTE TEMPORARY RESTRAINING ORDER

The STATE OF TEXAS, Plaintiff, acting by and through Attorney General GREG ABBOTT (“ATTORNEY GENERAL”), has filed its Original Petition in this cause seeking a Temporary and Permanent Injunction against Defendants MILKY WAY TRADERS, INC. and YVON BELLIARD, and in the same Original Petition has presented its request for a Temporary Restraining Order.

1. The Court FINDS that Defendant may be violating §§ 17.46(a) and (b) of the Texas Deceptive Trade Practices-Consumer Protection Act (“DTPA”), TEX. BUS. & COM. CODE § 17.41 *et seq.* and § 431.021 of the Texas Food Drug and Cosmetics Act (“TFDCA”), TEX. HEALTH & SAFETY CODE § 431 *et seq.*

2. It appears from the facts set forth in the Plaintiff’s Original Petition and exhibits and sworn affidavits attached thereto that unless Defendants are immediately restrained from the acts prohibited below, Defendants will continue to commit such acts before notice can be given and a hearing can be held on the STATE OF TEXAS’ request for a Temporary Injunction, and Defendant will continue to sell adulterated food product in violation of the terms of the detention order issued by the Commissioner of Health and to use false, misleading, or deceptive trade practices in the

production and sale of food products.

3. **IT IS THEREFORE ORDERED** that Defendants MILKY WAY TRADERS, INC., YVON BELLIARD, and their officers, agents, servants, employees, attorneys and any other persons in active concert or participation with Defendant, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other devise, shall be restrained from engaging in the following acts or practices:

- A. Transferring, concealing, destroying, or removing from the jurisdiction of this Court any books, records, documents, invoices or other written materials relating to business of Defendant currently or hereafter in Defendant's possession, custody or control except in response to further orders or subpoenas in this cause;
- B. Transferring, spending, hypothecating, concealing, encumbering, withdrawing, removing or allowing the transfer, removal, or withdrawal from any bank, savings association, credit union or other financial institution or from the jurisdiction of this Court any money, stocks, bonds, assets, sports memorabilia, notes, equipment, funds, accounts receivable, policies of insurance, trust agreements, or other property, real, personal or mixed, wherever situated, belonging to or owned by, in the possession or custody of, standing in the name of, or claimed by such Defendant without further order of this court;
- C. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which they do not have;
- C. Introducing into commerce food that is adulterated, in violation of §431.021(a) of the TFDCA;
- D. Introducing into commerce food that is misbranded, in violation of §431.021(a) of the TFDCA;
- E. Manufacturing within this state of food that is adulterated or misbranded in violation of 431.021.(h) of the TFDCA;
- F. Using, removing or disposing of a detained article in violation of 431.021(j); and
- G. Engaging in the manufacture of food in this state or operating as a warehouse operator in this state without having a license, in violation of 431.021(y).

H. Refusing to permit entry or inspection to DSHS inspectors in violation of 431.021(g)

4. **IT IS FURTHER ORDERED** that Plaintiff shall be granted leave to take telephonic, video, written, and other depositions prior to any scheduled temporary injunction hearing upon reasonable shortened notice to Defendant.

5. **IT IS FURTHER ORDERED** that Defendant in this cause be and hereby are commanded forthwith to comply with this Order from the date of entry until and to the 14th day after entry or until further Order of this Court, whichever is less.

6. The Clerk of the above Court shall forthwith issue an Ex Parte Temporary Restraining Order in conformity with the law and the terms of this Order. This Order shall be effective without the execution and filing of a bond as Plaintiff, STATE OF TEXAS is exempt from such bond under TEX. BUS. & COM. CODE ANN. § 17.46(b).

7. Hearing on Plaintiff, STATE OF TEXAS' Application for a Temporary Injunction is hereby set for the _____ day of _____, 2004, at _____ o'clock, ____m.

SIGNED this _____ day of _____, 2004, at ____ o'clock, ____m.

PRESIDING JUDGE